



CITY OF LONG BEACH EMPLOYEE POLICY MANUAL

Adopted By Long Beach City Council Resolution On
October 16, 2018



THE CITY OF LONG BEACH EQUAL EMPLOYMENT OPPORTUNITY POLICY

Effective Date: October 16, 2018

A. INTRODUCTION

The City of Long Beach respects the dignity and professionalism of each of its employees. Therefore, it is the goal of the City to promote a workplace that is free from discrimination and harassment.

Discrimination and harassment will not be tolerated by the City. To this end, all allegations of discrimination or harassment will be taken seriously and investigated.

The City of Long Beach is committed to a policy of equal opportunity and non-discrimination against any employee on the basis of:

- Race;
- Creed;
- Color;
- National origin;
- Religion;
- Sex***;
- Marital status;
- Sexual orientation;
- Age;
- Military status;
- Disability;
- Genetic predisposition and carrier status; or
- Any other bases protected by state, federal, or local law.

***The term “sex” shall include actual or perceived sex, sexual orientation and shall also include a person’s gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned at birth, including the status of being transgender.

In addition, it is unlawful to retaliate against an employee for filing a complaint under this policy or participating in the investigation of a complaint. Acts of retaliation taken against an employee will not be tolerated, and allegations of retaliation will be investigated.

B. PURPOSE

To inform all employees of the City of the conduct proscribed under its EEO Policy and the consequences for violating this policy; to provide all employees with a means to have their complaints addressed should they feel that they have been a victim of discrimination or harassment; to establish a policy concerning investigation of complaints and corrective action; and to inform employees of their responsibility should they witness acts of discrimination or harassment.

C. EMPLOYEE RESPONSIBILITIES

It is the responsibility of every employee of the City of Long Beach to take appropriate measures to ensure that discrimination, harassment, harassment based on membership in other protected classes (including those identified in Section A of this policy), and retaliation do not occur in the workplace. The City will take disciplinary action, up to and including discharge, against any employee who is found to be in violation of this policy or applicable federal or state anti-discrimination and anti-retaliation laws.

Any employee who witnesses another being subject to discrimination or harassment is strongly encouraged to report the alleged acts in accordance with this policy as soon as possible.

It is incumbent upon all supervisors to ensure through example and leadership that the workplace is free from discrimination and harassment. To that end, any supervisor who witnesses or otherwise becomes aware of an employee being subjected to sexual harassment, harassment based on membership in other protected classes (including the groups listed in Section A of this policy), or discrimination must report the acts or allegations to the City of Long Beach Equal Employment Opportunity Officer as soon as possible.

D. PROHIBITED CONDUCT

Discrimination

It is a violation of this policy to discriminate against any employee of the City of Long Beach on the basis of race, creed, color, national origin, religion, sex, marital status, sexual orientation, age, military status, disability, genetic predisposition and carrier status, or any other basis protected by state, federal, or local law.

Discrimination against an individual can occur in settings and situations including but not limited to: recruiting, hiring and promotion, transfer, work assignments, performance measurements, the work environment, job training, discipline and discharge, wages and benefits, or any other term, condition, or privilege of employment.

Discrimination or harassment can also be through offensive conduct, such as racial, ethnic, or religion based slurs, jokes, or derogatory comments; or other verbal or physical conduct based on an individual's race/color, creed, national origin religion, sex, or sexual orientation. While it is difficult to provide a precise definition of harassment, examples include

verbal (including improper joking or teasing) harassment, or physical conduct that denigrates or shows an aversion to an individual because of their protected characteristic(s).

Sexual Harassment

Sexual harassment in the workplace is a form of employment discrimination prohibited by law, and it will not be tolerated. All employees of the City of Long Beach should familiarize themselves with this policy so that they will understand what type of conduct is prohibited, and know the remedies available to anyone who has experienced sexual harassment.

Sexual Harassment, though difficult to define, is generally described by federal, state and in certain local anti-discrimination laws as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- Such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment can occur in a variety of locations, including but not limited to the following:

- At the workplace;
- Off premises at City sponsored and other social events;
- Off premises, at meetings with vendors and clients.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- The victim as well as the harasser can be any individual, regardless of their sex or gender;
- The harasser can be the victim's supervisor, an agent of the City, a supervisor in another area, a co-worker, or a non-employee;
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct;
- Unlawful sexual harassment may occur without economic injury to the victim or discharge from employment.

There is a broad range of conduct by supervisors and co-workers which may, in certain circumstances, be considered sexual harassment. This includes, but is not limited to:

- Making sexually suggestive remarks;

- Displaying sexually suggestive pictures and/or audio-visual materials, even if such conduct occurs away from the workplace and/or on an individual's personal device(s);
- Sexually suggestive or obscene gesturing;
- Threatening or taking adverse employment actions if sexual favors are not granted;
- Demands for sexual favors in exchange for favorable or preferential treatment;
- Unwelcome sexual advances, whether or not there is physical touching;
- Verbal harassment or abuse of a sexual nature;
- Sex stereotyping discrimination or harassment, in situations where an individual's conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look;
- Harassment or abuse of a sexual nature using electronic means, including emails, phone messages (e.g., text or photo), use of internet and/or social media, or logging onto pornographic websites, even if such conduct occurs away from the workplace and/or on an individual's personal device(s);
- Subtle or direct propositions for sexual favors;
- Unnecessary touching;
- Unwelcome patting or pinching;
- Vulgar or offensive conversations or jokes;
- Commenting about employees' physical appearance;
- Conversation about your own or someone else's sex life.
- Hostile actions taken against an individual *because of that individual's sex*, which may include (among other acts):
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, and/or name calling based on the individual's sex.

Other Forms of Harassment

Harassment need not be "sexual" in order to be unlawful. Other forms of harassment, such as harassment based on race, ethnicity, national origin, religion, or any other protected characteristic listed in Section A of this policy, is prohibited.

Retaliation

It is a violation of this policy to retaliate against any person for filing a charge of discrimination, participating in the complaint or investigation process of a discrimination or sexual harassment proceeding, or opposing discrimination in the workplace.

Retaliation is any employment action taken that could dissuade a reasonable worker from making or supporting a charge of discrimination. Wages, work hours, or assignment do not have to be affected in order for there to be retaliation, and retaliation could occur outside of the workplace (e.g., threats of physical violence outside of the work place and/or after work hours).

Retaliation is prohibited even if the underlying allegations of discrimination or sexual harassment are without merit.

E. REPORTING DISCRIMINATION OR SEXUAL HARASSMENT

Any employee, paid or unpaid intern, or non-employee of the City of Long Beach or applicant for employment with the City of Long Beach who believes he or she has been subjected to unlawful discrimination or harassment in violation of this policy or who witnesses another being subjected to improper conduct in violation of this policy is urged to report the alleged acts as soon as possible. (As noted above - supervisors must report).

The City of Long Beach will promptly and thoroughly investigate the facts surrounding any allegation of discrimination or harassment. While the investigation process may vary from case to case, the following is a general description of the process:

- Upon receipt of a complaint the EEO Officer will conduct a timely review of the allegations and take any interim actions as appropriate. If the complaint is verbal, the complaining individual is encouraged to complete the "Complaint Form" in writing. If refused, a Complaint Form will be prepared based on the verbal reporting.
- If documents, emails or phone records are relevant to the investigation, an individual should take steps to preserve them, as all relevant documents, including electronic communications will be requested and reviewed.
- Interviews of the parties involved, including relevant witnesses, will be conducted.
- A written report of the investigation will be created and contain
 - A list of documents reviewed and a summary of relevant documents;
 - A list of individuals interviewed and a summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported (if applicable); and
 - The basis for the recommendation and final resolution of the complaint; together with any recommended corrective action(s).
- All documentation collected will be kept in a secure, confidential location.
- Both complainant and respondent will be promptly notified of the determination and implement any appropriate corrective actions. However, employees are not entitled to receive copies of the EEO's investigative report, which is submitted to the City Manager **only**.
- Additionally, the complaining individual will be informed of their right to file a complaint or charge externally as outlined in this policy.

Anyone, regardless of position or title, that the City of Long Beach determines has engaged in unlawful discrimination, harassment, or retaliation of any kind will be subject to discipline up to and including discharge, including supervisory and managerial personnel who knowingly allow sexual harassment to continue or fail to report suspected sexual harassment.

Employees can report allegations of discrimination or harassment to:

- **The City's Equal Employment Opportunity (EEO) Officer**, to be designated by the City Manager (currently Robin Lynch, who can be reached at 516-705-7215); **or**
- **One of the City's Equal Employment Opportunity (EEO) Representatives.** These EEO Representatives shall include the following individuals, who can be reached at the following telephone numbers:
 - The Executive Officer, C.O.I.D, of the Police Department (516-431-1800)
 - The Executive Officer of the Fire Department (516-431-2434)
 - The Deputy Director of Youth and Family Services (516-431-1035)
 - The Commissioner of Recreation (516-431-3890)
 - The Chief of Lifeguards (516-431-1810)
 - The Director of Transportation (516-431-4445)
 - Any other individual that the Long Beach City Manager so designates

Note: In situations where the allegations of discrimination or harassment are directed at or otherwise pertain to the City's designated EEO Officer **AND** a designated Equal Employment Opportunity Representative, you may report those allegations directly to the City Manager.

Complaints can be made verbally **or** by the use of the City of Long Beach Complaint Form. A copy of this form is attached to this policy. Copies are also available in Room 504 in City Hall.

The EEO Officer and the designated EEO Representatives are available to assist you in filing a complaint or preparing a Complaint Form. They are also available to answer your questions concerning the details of this policy.

Note: Efforts will be made, when appropriate, to maintain the confidentiality of the information provided in connection with a complaint. However, investigatory steps or corrective action might require disclosure to certain individuals, including witnesses and the respondent (the person whom the allegations are made against). As such, nothing herein guarantees, or should be construed as guaranteeing, the confidentiality of any investigation or the information contained within or otherwise associated with such investigation.

Note: Rest assured that the City of Long Beach will not retaliate against anyone who makes a complaint, participates in an investigation of a complaint, or opposes discrimination in the workplace. Retaliation is prohibited by the City. Anyone who retaliates in violation of this policy will be subject to discipline, up to and including discharge.

F. FURTHER INFORMATION

In addition to the above, a person who believes they have been subjected to discrimination, sexual harassment, or retaliation may file a complaint with the federal, state, or local administrative agencies. Utilizing the complaint process of the City of Long Beach does not prohibit you from filing a complaint with any of these agencies.

- The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination law, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. §2000-e et seq.). Generally, in New York State, an individual can file a complaint with the EEOC anytime within 300 days from the unlawful harassment, discrimination or retaliation. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is probable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court. The EEOC has district, area and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov, or via email at info@eeoc.gov.
- The Human Rights Law (HRL), codified as N.Y. Executive Law, Article 15, § 290 et seq., applies to all employers in New York State with regard to harassment, discrimination and retaliation, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the HRL may be filed either with the Division of Human Rights (DHR) or in the Supreme Court of the State of New York. Complaints with the DHR may be filed within one year of the alleged unlawful conduct. If an individual did not file at DHR, they may file an HRL complaint in state court within three years of the alleged unlawful conduct. Utilizing the complaint process under this policy does not extend an individual's time to file in the DHR or state court, and the time is calculated from the most recent incident of unlawful conduct. You do not need an attorney to file a complaint with the DHR and there is no cost to file. DHR will investigate your complaint and determine whether there is probable cause to believe that unlawful conduct has occurred. If such a determination is made, an administrative law judge will hold a public hearing and if, after that hearing, unlawful conduct is found, DHR has the power to award relief. Awarding of injunctive relief, monetary damages, attorney's fees and civil fines is possible in certain cases. DHR's main office contact information is:
 - New York State Division of Human Rights, One Fordham Plaza, 4th Floor
Bronx, New York 10458
(718) 741-8400
www.dhr.ny.gov
- Many localities also enforce laws protecting individuals from unlawful harassment, discrimination, and retaliation. An individual should contact the county, or municipality in which they live to find out if such law exists. For example,


employees who work in Nassau County may file complaints of unlawful discrimination or harassment with the Nassau County Commission on Human Rights (NCCHR), located at 240 Old Country Road, Suite 606, Mineola, New York 11501. The NCCHR's phone number is (516) 571-3662 and their website is www.nassaucountyny.gov/414/Human-Rights-Commission.

G. DISTRIBUTION

1. The City shall ensure that a copy of this policy is distributed to every employee.
2. As new EEO Officers and new EEO Representatives are designated by the City Manager, employees shall be notified by memoranda.
3. All new employees shall be supplied with a copy of this policy.
4. Each employee receiving a copy of this policy will sign an acknowledgment of receipt, which shall be placed in the employees personnel file.

H. CONTACT THE LOCAL POLICE DEPARTMENT

If the unlawful conduct involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

	<p style="text-align: center;">THE CITY OF LONG BEACH FAMILY & MEDICAL LEAVE ACT (“FMLA”) POLICY</p> <p style="text-align: center;">Effective Date: October 16, 2018</p>
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A. PURPOSE AND GOAL

In furtherance of its commitment to the welfare of its workforce, the City of Long Beach has established this policy to clearly delineate employee rights and responsibilities, and to otherwise comply with the Family and Medical Leave Act (“FMLA”) of 1993.

B. FMLA ELIGIBILITY

Employees who have been employed for at least one (1) year and who have at least 1,250 working hours in the previous twelve (12) months are eligible for leave under the Family and Medical Leave Act (FMLA). This Act entitles eligible employees up to twelve (12) weeks of unpaid, job-protected leave in a 12-month period for one or more of the following qualifying events:

- Birth of and care for an employee’s newborn child;
- Placement of and care for a child with the employee for adoption or foster care;
- Care for an employee’s spouse, child or parent who has a serious health condition; or
- Employee’s own serious health condition.

Military Family Leave - Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their twelve (12) weeks of leave to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions and attending post-deployment reintegration briefings. FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a “covered service member” during a 12-month period. A “covered service member” is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. Employees must make a request for such leave, directly to the City Manager, prior to taking leave. This request must include the circumstances supporting the need for such military family leave. The City Manager will promptly notify the employee whether the request has been approved or declined.

C. RULES & PROCEDURES

The following rules and procedures apply to the City's FMLA policy:


1. The "12-month" period in which the twelve (12) weeks of leave entitlement occurs is a "rolling 12-month period" measured backward from the date an employee uses any FMLA leave. *For example, if an employee has taken eight (8) weeks of leave during the last twelve (12) months, an additional four (4) weeks of leave could be taken. If an employee used four (4) weeks beginning February 1, 2010, four (4) weeks beginning June 1, 2010, and four (4) weeks beginning December 1, 2010, the employee would not be entitled to any additional leave until February 1, 2011. However, beginning February 1, 2011, the employee would be entitled to an additional four (4) weeks, etc.*
2. FMLA leaves are not chargeable to the employee's attendance record and are **unpaid**, except those:
 - (a) for an employee's own serious health condition which run **concurrently** with any existing or future paid medical leave program(s) administered by the City or;
 - (b) where an employee uses vacation and/or sick days for salary continuation purposes, as described in section (C)(3) of this Policy. As described in section (C)(3) below, FMLA leave runs **concurrently** with an employee's use of sick or vacation days, so long as those sick or vacation days are used in connection with an FMLA-qualifying event.
3. Any time an FMLA leave is taken by an employee, the employee is permitted (upon timely request) to use his or her unused accrued vacation days for salary continuation purposes. In situations where the FMLA leave is necessitated by the employee's own serious medical condition, the employee may also use his or her unused accrued sick days for salary continuation purposes.¹ If the paid portion of the medical leave is less than the amount of FMLA time needed, the additional leave time necessary to attain a maximum of twelve (12) weeks will be unpaid. *For instance, if an employee goes on leave for an FMLA-qualifying event and elects to use two (2) weeks of sick or vacation days for salary continuation purposes, the remaining ten (10) weeks of that leave (if taken) will be unpaid, and the entire twelve (12) week leave will be counted as leave time taken under the FMLA.* Nothing in this section should be construed as limiting the City's right to classify any paid and/or unpaid portions of a leave as "FMLA leave," when such leave is taken for an FMLA-qualifying event.

¹ This correlates with the City's policy that sick days may be used only when the employee is, *him or herself*, ill. Sick days may not be used for any other purpose.

4. Medical certification is mandatory. Medical certification is required to support a request for leave due to a serious health condition. This certification applies to an employee's own serious health condition or the serious health condition of a parent, spouse or child. A medical certification form must be submitted to the City's City Manager (located on the fifth floor of City Hall) **at such time FMLA leave is requested.** *The certification must specify the serious medical condition necessitating the leave, and the expected approximate duration of the serious medical condition.* The City may require a second opinion, at the City's expense. Failure to provide appropriate certification in a timely manner may result in denial of the leave.
5. Notice is required for all leaves. If a leave is foreseeable, twenty (20) days advance notice is required. If twenty (20) days notice is not possible, the employee should give as much notice as possible. Failure to properly notify the City may result in denial of the leave.
6. FMLA leave for the birth or placement (for adoption or foster care) of a child may only be taken within twelve (12) months of that birth or placement.
7. It is the employee's responsibility to notify the City when any time off from work is being requested under the FMLA and/or this Policy. Therefore, it is essential that an employee explain the reason for all illness-related absences. If a leave was taken for an FMLA reason but the City was not aware of the reason, and the employee desires that the leave be counted as FMLA, the employee must notify the City as soon as possible. In the absence of such timely notification, the employee may not retroactively assert FMLA protection for the absence.
8. Intermittent Leave. FMLA leave for a serious health condition – either a family member's or the employee's own condition – can be taken intermittently or on a reduced schedule if medically necessary. In such cases, the City may periodically ask for, and the employee will be required to provide, new and/or updated medical certification. Leaves for the birth, placement, or care of a newborn child cannot be taken intermittently. When leaves are taken intermittently, salary will be reduced based on the amount of time actually worked. In addition, while an employee is on an intermittent or reduced schedule FMLA leave, the City temporarily may transfer you to an available alternative position which better accommodates your recurring leave and which has equivalent pay and benefits.
9. Extensions of FMLA leaves will not be granted without new medical certification. Employees who take FMLA leave for their own or a family member's serious medical condition are responsible for providing new and updated medical certification whenever they wish to extend an FMLA leave. For example, if an employee takes a six (6) week FMLA leave for his or her serious medical condition and wishes to extend that leave for three (3) more weeks (before returning to work), new and updated medical certification must be provided in the manner described in section (C)(4) of this Policy. *Additionally, this new certification must indicate the*

status and continued presence of the serious medical condition that necessitated the original FMLA leave, or the onset of a new and/or different condition that warrants an extension of the FMLA leave.

10. If you take leave because of your own serious health condition, (except if you are taking intermittent leave), you are required to provide medical certification that you are fit to resume work with or without reasonable accommodation. Employees failing to provide this documentation will not be permitted to resume work until it is provided.
11. For the duration of the FMLA leave, the City will maintain the employee's health insurance coverage, to the extent that the employee is enrolled in the City's health insurance plan.
12. All family and medical leaves that fall within the requirements of the FMLA will run concurrently with the City's family and medical leave policies.

	<p style="text-align: center;">THE CITY OF LONG BEACH DRUG-FREE WORKPLACE POLICY</p> <p style="text-align: center;">Effective Date: October 16, 2018</p>
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A. PURPOSE AND GOAL

The City of Long Beach is committed to protecting the safety, health and well being of all employees and other individuals in our workplace. We recognize that alcohol and drug abuse pose a significant threat to our goals. Moreover, we recognize that workplace violence, often the byproduct of drug and alcohol abuse, poses a serious threat to the welfare of our employees. We have established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment.

- This policy recognizes that employee involvement with alcohol and other drugs can be very disruptive, adversely affect the quality of work and performance of employees, pose serious health risks to users and others, and have a negative impact on productivity and morale.
- The City of Long Beach encourages employees to voluntarily seek help with drug and alcohol problems.

B. COVERED WORKERS

Our policy includes, but is not limited to managers, supervisors, full-time employees, part-time and seasonal employees, off-site employees, volunteers, interns and applicants. Additionally, any individual who conducts business for the City, is applying for a position, or is conducting business on the City's property is covered by our drug-free workplace policy.

C. APPLICABILITY

Our drug-free workplace policy is intended to apply whenever anyone is working, representing, or conducting business for the City. Therefore, this policy applies during all working hours, whenever conducting business or representing the City, while on call, paid standby, while on organization property and at city-sponsored events.

D. PROHIBITED BEHAVIOR

It is a violation of our drug-free workplace policy for employees to use, possess, sell, trade, and/or offer for sale alcohol, illegal drugs or intoxicants whenever working, representing,

or conducting business for or on behalf of the City in any capacity. Employees are also prohibited from working, representing, or conducting business for the City while their ability to do so has been impaired (in any manner) by the use of alcohol, prescription drugs, non-prescription drugs, recreational drugs, or any other controlled substance.

E. NOTIFICATION OF CONVICTIONS

Any employee who is convicted of any offense related to drugs or other controlled substances, where such offense occurred *within the workplace, or while on official Long Beach business, or while representing the City in any capacity whatsoever*, must notify the City Manager (located on the fifth floor of City Hall) in writing within five (5) calendar days of the conviction. The City will take appropriate action within thirty (30) days of notification.

F. SEARCHES

Acceptance of employment with the City constitutes an employee's consent to searches and inspections of all City-owned property, equipment and other materials. If an individual is suspected of violating the drug-free workplace policy, any City owned property is subject to search. For example, desks, work stations, lockers, City vehicles, and any other property, equipment, or other materials owned by the City is subject to search and inspection at any time.

The City Manager has sole and non-delegable discretion to authorize searches under this Policy. Thus, any searches conducted pursuant to this Policy must be specifically authorized by the City Manager. Should the City Manager designate another employee to conduct the actual search, the City Manager shall set forth the date and time that the search will occur, and the precise property or properties to be searched.

G. REFUSAL TO TAKE TEST

Refusal to take a drug and/or alcohol test constitutes a verified positive test result. The following is a description of the behavior and circumstances that constitute a "refusal":

- (a) Failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer after being directed to do so by the employer;
- (b) Failure to remain at the testing site until the testing process is complete (an employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test);
- (c) Failure to provide a urine specimen for any drug test required by this part or DOT agency regulations;
- (d) Failure to provide a sufficient amount of urine when directed, and it has been

determined, through a required medical evaluation, that there was no adequate medical explanation for the failure'

- (e) Fail or decline to take an additional drug test the employer or collector has directed you to take;
- (f) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or employer. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test;
- (g) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector);
- (h) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen;
- (i) For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- (j) Possess or wear a prosthetic or other device that could be used to interfere with the collection process;
- (k) Admit to the collector or MRO that you adulterated or substituted the specimen.

(source: 49 CFR Part 40)

H. CONSEQUENCES

One of the goals of our drug-free workplace program is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an individual violates the policy, the consequences are serious.

In the case of applicants, if he or she violates the drug-free workplace policy, the offer of employment may be withdrawn.

If an employee violates the policy, he or she will be subject to disciplinary action (up to and including discharge) and may be required to enter rehabilitation. An employee required to enter rehabilitation that fails to successfully complete it and/or repeatedly violates the policy will be terminated from employment. Nothing in this policy prohibits the employee from being disciplined or discharged for other violations and/or performance problems.

I. RETURN TO WORK AGREEMENTS

Following a violation of the drug-free workplace policy, the employee must sign and abide by the terms set forth in a Return-to-Work Agreement as a condition of continued employment.

J. ASSISTANCE

The City of Long Beach recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation. To support our employees, our drug-free workplace policy:

- Encourages employees to seek help if they are concerned that they or their family members may have a drug and/or alcohol problem.
- Encourages employees to utilize the services of qualified professionals in the community to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help.

Treatment for alcoholism and/or other drug use disorders may be covered by the employee health plan and/or under the provisions of the collective bargaining agreement. However, the ultimate financial responsibility for recommended treatment belongs to the employee.

K. CONFIDENTIALITY

Efforts will be made to maintain the confidentiality of the information provided in connection with a complaint. However, investigatory steps or corrective action might require disclosure to certain individuals, including witnesses and the respondent (the person whom the allegations are made against). As such, nothing herein guarantees, or should be construed as guaranteeing, the confidentiality of any investigation or the information contained within or otherwise associated with such investigation.

L. SHARED RESPONSIBILITY

A safe and productive drug-free workplace is achieved through cooperation and shared responsibility. Both employees and management have important roles to play.

Employees are encouraged to:

- Be concerned about working in a safe environment.
- Support fellow workers in seeking help.

- Report dangerous behavior to their supervisor.

It is the supervisor's responsibility to:

- Observe employee performance.
- Investigate reports of dangerous practices.
- Document negative changes and problems in performance.
- Counsel employees as to expected performance improvement.
- Clearly state consequences of policy violations.

M. COMMUNICATION

Communicating our drug-free workplace policy to both supervisors and employees is critical to our success. To ensure that employees are aware of their role in supporting our drug-free workplace program, all employees shall receive a written copy of this policy.



**THE CITY OF LONG BEACH
WORKPLACE VIOLENCE PREVENTION ACT (“WVPA”)
POLICY & PROGRAM**

Effective Date: October 16, 2018

A. PURPOSE

Nothing is more important than the safety and security of our employees. Threats, threatening behavior, or acts of violence against employees, visitors, guests, or other individuals by anyone on City property will not be tolerated. In this light, the City recognizes that workplace violence poses a serious threat to employee safety, and hinders the City’s organizational objectives. Accordingly, the City has promulgated this Policy to reduce the real and potential threat of workplace violence and clearly convey the consequences for violating this Policy, and to otherwise comply with the Workplace Violence Prevention Act (N.Y. Labor Law § 27-b, et seq.).

The following has been developed and implemented by the City, in conjunction with authorized representatives from the Civil Service Employees’ Association, Patrolmen’s Benevolent Association, and the Professional Fire Fighters Association.

B. DEFINITION OF WORKPLACE VIOLENCE

Workplace violence is generally defined as *any physical assault, threatening behavior or verbal abuse occurring in the work setting*. While workplace violence can take many forms, some types include:

- Specific threats of violence by an employee
- Vague or non-specific threats of violence by an employee
- Threats of violence directed against an employee by a non-employee
- Violent confrontation by a spouse or significant other with an employee over a personal/domestic dispute
- Threats or threatening conduct by disgruntled current or former employees
- Violent altercations between two (2) coworkers and/or between supervisors and subordinates
- Assaults by intruders or guests

C. PROHIBITED CONDUCT

The City of Long Beach has a policy of zero-tolerance toward, and is fully committed to eradicating, workplace violence. As such, any person who makes threats, exhibits threatening behavior, or engages in violent acts on City property will be removed from the premises as quickly as safety permits and shall remain off City premises pending the outcome of an investigation. The City's response to incidents of violence may include a formal reprimand, transfer to another facility, reassignment of job duties, suspension, or any other form of discipline, up to and including termination.

D. RISK EVALUATION

The City, in conjunction with representatives of the Civil Service Employees' Association, Patrolmen's Benevolent Association, and the Professional Fire Fighters Association has conducted a thorough investigation and evaluation of its facilities in an effort to identify the presence of "risk factors," or circumstances considered likely to lead to, or result in, workplace violence.

1. Risk Factor Methodology & Risk Factors

To help assess the City's exposure to risk, the City primarily utilized four (4) analytical tools. Specifically, the City: (1) reviewed occupational injury records to determine whether injuries were caused by or otherwise related to workplace violence; (2) cooperated with unions to inspect and/or analyze City facilities; (3) conducted surveys of employees to learn of past incidents; and (4) reviewed internal records to uncover past incidents and possible patterns.

This analysis revealed the existence of the following specific risk factors:

- City Department heads in need of supplemental workplace violence training
- Undocumented access to City facilities by members of the public
- Employees who work in inherently dangerous occupations, such as Police and Fire Department personnel
- Employees who work late night and early morning hours, such as Police and Fire Department Personnel
- Allegations of substance abuse made during or in connection with discrimination, harassment, and other types of complaints

2. Corrective Measures

The City shall take the following preliminary steps, which are designed to address some of the risk factors identified above, and to curb potential workplace violence:

- a. Sign-in sheets Now Required: The City has determined that it may have a security interest in documenting the identities of visitors at certain City facilities. As such, the City has introduced sign-in/sign-out sheets at one or more facilities.
- b. Supplemental Training for Managers. Pursuant to Union recommendations, supervisors and/or department heads will receive supplemental workplace violence training
- c. Revisions of Drug-Free Workplace Policy. In its review of past discrimination, harassment and other complaints, the City has observed a pattern of allegations relating to substance abuse among employees. The City finds that substance abuse significantly increases the propensity for workplace violence. Accordingly, the City has promulgated, and recently updated, a separate “Drug-Free Workplace Policy” to address this issue. This policy is designed to reinforce the City’s commitment to providing a drug-free and alcohol-free workplace for its employees. The updates are designed to explain to all employees, in clear terms, the consequences for refusing to take a drug or alcohol test. The Policy shall be distributed to all employees, who will be required to acknowledge receipt of same.

In addition, the City has allowed for full employee participation of through the above-referenced unions and/or collective bargaining units in the development and implementation of all aspects of this WVPA Policy and Program, including the written policy statement. All unions were previously been given an opportunity to address any concerns regarding the Policy, Program and/or Program Statement with the City following a meeting that occurred among the City, New York State Department of Labor representatives, and union representatives.

E. DESIGNATION OF WORKPLACE SECURITY COORDINATOR

The Workplace Security Coordinator is responsible for the administration of this Policy. Currently, the City’s Workplace Security Coordinator is Robin Lynch, who can be reached at (516) 431-1000, ext. 7214. The Workplace Security Coordinator is available to assist you in filing a complaint. They are also available to answer your questions concerning the details of this policy. *****All complaints regarding alleged violations of the Policy should be directed to the Workplace Security Coordinator’s attention.**

F. REPORTING WORKPLACE VIOLENCE

Any employee of the City of Long Beach who believes he or she has been subjected to workplace violence in violation of this policy or who witnesses another being subjected to improper conduct in violation of this policy is urged to report the alleged acts as soon as possible. The City of Long Beach will promptly and thoroughly investigate the facts surrounding any allegation of workplace violence. Consistent with its zero-tolerance policy,

anyone, regardless of position or title, whom the City of Long Beach determines has engaged in workplace violence will be subject to discipline up to and including discharge.

*Any employee who believes that a serious violation of this Policy exists or that an imminent danger exists shall bring such matter to the attention of the Workplace Security Coordinator. This notice must be in writing, and the complaining employee must provide the City with a reasonable amount of time to investigate and (if a violation or imminent danger is found to exist) address the violation or imminent danger. This referral requirement shall not apply when imminent danger or threat exists to the safety of a *specific employee* and the complaining employee reasonably believes in good faith that reporting to the Workplace Security Coordinator would not result in corrective action. In such cases, the complaining employee has the option of reporting the imminent danger directly to the New York State Department of Labor.*

Note: Efforts will be made to maintain the confidentiality of the information provided in connection with a complaint. However, investigatory steps or corrective action might require disclosure to certain individuals, including witnesses and the respondent (the person whom the allegations are made against). As such, nothing herein guarantees, or should be construed as guaranteeing, the confidentiality of any investigation or the information contained within or otherwise associated with such investigation.

Shortly after you file a complaint, you will be contacted and interviewed at a location that will protect your privacy. Your complaint will be investigated, and you will be notified when the investigation has concluded. To the extent permissible, practical and/or reasonable, you will be notified of the results of the investigation.

At the conclusion of any investigation, the Workforce Security Coordinator shall submit an official report to the City Manager (or the City Manager's designee), which shall include factual findings and recommendations. The City Manager (or the City Manager's designee) shall then adopt, or refuse to adopt, all or any portion of the Workforce Security Coordinator's report.

Rest assured that the City of Long Beach will not retaliate against anyone who makes a complaint, or participates in an investigation of a complaint. This extends to complaints made to, and investigations undertaken by, the New York State Department of Labor. Additionally, no employee shall be retaliated against for accompanying the New York State Department of Labor during an investigation. Retaliation is strictly prohibited by the City. Anyone who retaliates in violation of this policy will be subject to discipline, up to and including discharge.

G. ORDERS OF PROTECTION

An employee who applies for or obtains a protective or restraining order that lists City of Long Beach work sites as protected areas must provide a copy of the petition and declarations used to seek the order and a copy of any temporary or permanent protective or restraining order that was granted. The City has confidentiality procedures that recognize and respect the privacy of the reporting employee(s).

H. LOCATION OF POLICY

Copies of this Policy are available in Room 504 in City Hall.

I. HIERARCHY OF CONTROLS

In the wake of a sustained workplace violent complaint, the City shall ensure for proper provision of engineering controls, work practice controls, and personal protective equipment.

J. OUTLINE AND LESSON PLAN

The City will prepare presentation materials that will be distributed to all employees during training sessions conducted pursuant to this Policy. These materials, which are expressly incorporated by reference herein, contain the City's full outline and/or lesson plan.

K. PROGRAM REVIEW AND UPDATE

This program shall be reviewed at least once annually by the City, and the City shall periodically conduct training sessions on this Program in compliance with N.Y. Labor Law § 27-b and the Department of Labor's implementing regulations.



THE CITY OF LONG BEACH CODE OF ETHICS

(City Charter, Art. 2 § 18)

All City officers and employees are bound by, and must adhere to, the City's Code of Ethics, as set forth in Article 2, Section 18 of the City Charter:

1. [Generally.] Pursuant to the provisions of section eight hundred six of the general municipal law, the common council of the City of Long Beach recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this local law to promulgate these rules of ethical conduct for the officers and employees of the City of Long Beach. These rules shall serve as a guide for official conduct of the officers and employees of the City of Long Beach. The rules of ethical conduct of this local law [section] as adopted, shall not conflict with, but shall be in addition to any prohibition of article eighteen of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.
2. *Definitions.*
 - (a) "Municipal officer or employee" means an officer or employee of the City of Long Beach, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a chief engineer or assistant chief engineer.
 - (b) "Interest" means a pecuniary or material benefit accruing to a municipal officer or employee unless the context otherwise requires.
3. *Standards of conduct.* Every officer or employee of the City of Long Beach shall be subject to and abide by the following standards of conduct:
 - (a) Gifts and favors. No officer or employee of the City of Long Beach, whether paid or unpaid, shall accept or solicit any valuable gift, whether in

the form of services, loan, thing or promise or any other form, from any person, firm or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business or professional dealings with the city or any agency thereof.

- (b) Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his own personal interest or that of others.
- (c) Representing private interests before city agencies. No officer or employee of the City of Long Beach whose salary is paid in whole or in part from the city treasury shall appear in behalf of private interests before any city agency; nor shall any officer or employee whose salary is paid in whole or in part from the city treasury represent private interests in any action or proceeding against the interests of the city, in any litigation to which the city is a party, or in any action or proceeding in which the city or any agency or any officer or employee thereof in the course of his official duties is a complainant, in a matter involving any violation of the municipal code.
- (d) No person serving the city without compensation shall appear, either directly or indirectly, on behalf of private interests involving the agency, board, or commission which he serves or before any agency of the city affecting matters involving the agency in which he serves.
- (e) Disclosure of interest:
 - 1. Any officer or employee of the City of Long Beach, whether paid or unpaid, who has a direct or indirect financial or other private interest in any matter being considered by the city council or by any other official board, agency, officer or employee of the City of Long Beach, and who participates in discussions before or gives opinions to such board, agency or individuals, shall publicly disclose on the official record the nature and extent of such interest.
 - 2. Any officer or employee of the City of Long Beach, whether paid or unpaid, who has knowledge of any matter being considered by any board, agency, officer or employee of the City of Long Beach

in which he has any direct or indirect financial or other private interest, shall be required to disclose in writing his interest to such board, agency, officer or employee, and the nature and extent thereof.

3. A copy of every disclosure required under subsection "1" and "2" above, including a copy of every transcript containing such a disclosure, shall be promptly transmitted by the board, agency, officer or employee receiving such disclosure to the city clerk of the City of Long Beach who shall file and maintain same as a public record.
 - (f) Investments in conflict with official duties. He shall not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction, which creates a conflict with his official duties.
 - (g) Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
 - (h) Future employment. No person who has served as officer or employee of the city shall within a period of two years after termination of such service or employment appear before any board or agency of the city or receive compensation for any services rendered on behalf of any person, firm, corporation or association in relation to any case, proceeding or application with respect to which such person was directly concerned, or in which he personally participated during the period of his service or employment, or which was under his active consideration or with respect to which knowledge or information was made available to him during the period of said service or employment.
4. [*Exceptions.*] Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the City of Long Beach, or any agency thereof on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

5. *Board of ethics.* There is hereby created and established a board of ethics consisting of eight (8) members to be appointed by the city council, a majority of whom shall not be employees or officers of this city, all of whom shall reside in the City of Long Beach and who shall serve without compensation. Members of the board of ethics shall serve at the pleasure of the city council. The members of the board shall elect a chairman. The corporation counsel shall be a member ex officio of the board, and at least one member of said board shall be an elected or appointed municipal officer or employee.

The board shall render advisory opinions with respect to Article 18 of the General Municipal Law and of this code. All requests for opinions must be submitted to the board in writing. An opinion shall be rendered only to the person duly requesting it. Opinions may be rendered on the motion of the board or of any member thereof.

Such board, upon its formation, shall promulgate its own rules and regulations as to its forms and procedures and shall maintain appropriate records of its opinions and procedures.

6. *Distribution of code of ethics.* The city manager of the City of Long Beach shall cause a copy of this code of ethics to be distributed to every officer and employee of the city within twenty (20) days after the effective date of this local law [section]. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment.
7. *Penalties.* In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any other provision of law or of this code may be fined, suspended or removed from office or employment as the case may be, in the manner provided by law.
8. *Effective date.* This local law [section] shall take effect twenty (20) days after it is filed as provided in section twenty-seven of the municipal home rule law.

(L.L. No. 3, 1967, § 1; L.L. No. 1, 1968, § 1; L.L. No. 10, 1970, § 1; L.L. No. 2, 1971, §§ 1—3; L.L. No. 2, 1972, § 1; L.L. No. 6, 1980, § 1)

[illegible]

Signature: _____

Date: _____